THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

Date: 03—11—2005

W.P. No. 23143 of 2005

Between:

M/s. P.M. Strips Ltd.,

a Public Limited Company, rep. by its Director

Sri G.P. Surana

…petitioner.

a n d

The Commissioner of Central Excise & Customs,

Basheerbagh, Hyderbad and another.

…Respondents.

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

W.P. No. 23143 of 2005

O R D E R: (per Sri B. Sudershan Reddy, J)

Heard the learned counsel for the petitioner and the learned Assistant Solicitor General appearing on behalf of the respondents and at their request the matter is taken up for disposal even at the stage of admission. Rule nisi.

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a writ of Mandamus to set aside the auction notice dated 25.10.2005 issued and published in Deccan Chronicle at the instance of the 2nd respondent in Serial No.2 in respect of the land belonging to the petitioner in Sy.Nos. 336 and 337 of Chitkur village, Medak District (with shed, building etc.) of the petitioner until disposal of the appeal filed by the petitioner before the Customs Excise & Gold (Control) Appellate Tribunal, Bangalore.

The petitioner filed an appeal before the Commissioner of Appeals as against the order of the Assistant Commissioner dated 23.8.2004 and the said appeal was disposed of by the Commissioner on 23.3.2005 confirming the demand and interest as ordered by the Assistant Commissioner. The petitioner preferred appeal before the Appellate Tribunal, Bangalore on 14.7.2005 along with stay petition against the order passed in Order-in-Appeal No.39/2005(H-1)CE dated 23.3.2005 passed by the Commissioner of Appeals.

The gravamen of the complaint in the instant writ petition relates to the action on the part of the 2nd respondent in issuing the auction notice on 25.10.2005 proposing to auction the land belonging

to the petitioner even when the stay petition and appeal preferred by the petitioner are pending before the Customs Excise & Gold (Control) Appellate Tribunal, Bangalore.

It is not in dispute that the petitioner preferred an appeal along with a stay petition as against the orders of the Commissioner referred to hereinabove and the stay petition is yet to be disposed of. The 2nd respondent could not have issued the auction notice proposing to auction the land of the petitioner even during the pendency of the stay petition filed by the petitioner.

The writ petition is accordingly disposed of directing the 2nd respondent not to proceed with the auction or take any coercive steps during the pendency of the stay petition filed by the petitioner. The Tribunal shall expedite the hearing of the stay petition and pass appropriate orders in accordance with law.

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B. Sudershan Reddy, J.

_____ **S. Ananda Reddy, J.**

Date: 03—11—2005.

MVB.